

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

<b>SECURITIES &amp; EXCHANGE COMMISSION,</b>	)	<b>Case No. 1:18-CV-04309-RWS</b>
	)	
	)	
<b>Plaintiff,</b>	)	
<b>v.</b>	)	
	)	
<b>FRANCISCO ABELLAN VILLENA,</b>	)	
<b>GUILLERMO CIUPIAK,</b>	)	
<b>JAMES B. PANTHER, and FAIYEZ DEAN</b>	)	
	)	
<b>Defendants.</b>	)	
	)	
	)	

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**MOTION TO SEAL**

The United States of America (the “Government”), by and through its undersigned attorneys, hereby moves that this Court issue an order providing (1) that the Motion to Seal and the accompanying proposed form of order be filed under seal; (2) that the accompanying Notice to the Court be filed *ex parte* and under seal; and (3) that any order filed by the Court responsive to the aforementioned submissions be filed under seal.

Sealing these materials is necessary because they contain information related to an ongoing criminal investigation, the public disclosure of which could hamper or impair law enforcement and jeopardize the investigation. Sealing is also necessary to avoid possible prejudice to the ongoing investigation.

The Court has the inherent power to seal court filings when appropriate. *See Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 598 (1978). The Court may also seal filings to prevent serious jeopardy to an ongoing criminal investigation where, as here, such jeopardy creates a compelling governmental interest in preserving the confidentiality of the information. *See United States v.*

*Park*, 619 F. Supp. 2d 89, 94 (S.D.N.Y. 2009) (denying motion to unseal where doing so would reveal “the subject matter and status” of an ongoing criminal investigation).

WHEREFORE, it is respectfully requested that the motion to seal is granted.

Dated: October 8, 2021

Respectfully Submitted,

JOSEPH BEEMSTERBOER  
ACTING CHIEF  
FRAUD SECTION

By: /s/ D. Brittain Shaw  
D. Brittain Shaw  
Trial Attorney  
United States Department of Justice  
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Dated: October 11, 2021

**CERTIFICATE OF SERVICE**

I hereby certify that, on October 12, 2021, I electronically filed and served the foregoing Motion to Seal, accompanying Proposed Order to Seal and *ex parte* Notice to the Court with the Clerk of the Court using CM/ECF.

/s/ D. Brittain Shaw

D. Brittain Shaw  
Trial Attorney  
United States Department of  
Justice Criminal Division, Fraud  
Section

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<b>JAMES B. PANTHER, and FAIYEZ DEAN</b>	)	
	)	
<b>Defendants.</b>	)	
	)	
	)	

**[PROPOSED] ORDER**

AND NOW this \_\_\_\_\_ day of \_\_\_\_\_, 2021, upon consideration of the United States of America's Motion to File Under Seal (the "Motion"), it is hereby ORDERED that:

1. The Motion is GRANTED.
2. The Government's *ex parte* Notice to the Court, the accompanying motion and proposed order shall be filed under seal, until further order of this Court.
3. This Order shall remain under seal, until further order of this Court.

IT IS SO ORDERED.

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THE HONORABLE ROBERT W. SWEET  
United States District Court for the Southern District  
of New York